

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE

RICHARD A. ROWE, MARY L.
CARTER, MICHELLE E. TOMARCHIO,
REGINA M. TROUT, ALLEN K.
MOORE, CATHERINE A. LAWRENCE,
AND KATHLEEN K. LEMKE, as parent
and personal representative of DJL, Jr., a
minor, individually and on behalf of
themselves and all others similarly situated,

Plaintiffs,

vs.

E. I. DUPONT DE NEMOURS AND
COMPANY,

Defendants.

And

MISTY SCOTT, on behalf of herself and
all others similarly situated,

Plaintiff,

vs.

E. I. DUPONT DE NEMOURS AND
COMPANY,

Defendant.

CIVIL ACTION NO.: 06-1810-RMB-
AMD

CIVIL ACTION NO.: 06-3080-RMB-
AMD

**PLAINTIFFS' SECOND SUPPLEMENT TO JOINT MOTION FOR
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

Class Counsel for Plaintiffs in the above-captioned cases hereby submit this
Second Supplement to the pending Joint Motion For Preliminary Approval of
Class Action Settlement (*Rowe* Doc. 501/*Scott* Doc. 438) to address several

questions raised by the Court with respect to the pending Motion during a conference call with counsel for the Parties on February 28, 2011.¹

First, with respect to the relationship between the estimated Incidental Payment Option amount and the estimated water Filter Option value, Plaintiffs' Class Counsel hereby confirm that they intend the Incidental Payment Option amount to represent, to the fullest extent reasonably practicable under the circumstances, the equivalent cash value of the complete water Filter Option package made available to each participating Class Household. That Filter Option package value (and corresponding Incidental Payment Option) is currently estimated to be at least approximately \$800, assuming approximately 4800 participating Class Households, one Culligan RC-EZ-4 water filter system per package at approximately \$100, at least 10 replacement cartridges at approximately \$50 each, a \$200 installation check, and free delivery of the water filter package to the Class Household.

Class Counsel anticipate that, if the Settlement is approved, a Class Administrator will be appointed who will (under the terms of a separate Class Administrator Agreement to be submitted to the Court for approval at the final Fairness Hearing (the "Administrator Agreement")): 1) distribute settlement benefit claim forms to each Class Household requiring each Household to specify

¹ Capitalized terms shall have the same meaning assigned in the Class Action Settlement, which is attached as Exhibit A to the pending Joint Motion for Preliminary Approval.

which settlement benefit option they prefer (Filter Option or Incidental Payment Option); 2) use the returned claim forms to determine the total number of participating Class Households; 3) determine the total number of participating Class Households who prefer the Filter Option versus the Incidental Payment Option ; 4) based on the number of Class Households selecting the Filter Option, negotiate the best available price for the necessary number of water filter systems, associated replacement cartridges, and bulk mailing rate for the water filter packages to the Class Households; 5) determine how many replacement cartridges (currently estimated to be at least 10 per Class Household, assuming all 4800 Households select the Filter Option and the replacement cartridges are purchased at the full, currently-advertised retail price of approximately \$50 each) are to be included in each Filter Option package, based on the negotiated costs and available settlement benefits (taking into account the deduction of court-approved attorneys fees/expenses and Class Administrator expenses); and 6) set an equivalent cash value (based on those actual negotiated water filter system/replacement cartridges/postage rates) for the Incidental Payment Option checks.

Second, with respect to whether it is anticipated that all of the settlement benefits remaining in the settlement fund (after deducting court-approved attorneys fees/expenses and Class Administrator expenses) will be distributed to Class Households, or whether there will be some “remainder” left for processing, Class

Counsel contemplate that all of those settlement funds ultimately will be distributed to the Class Households on an equivalent, pro-rata basis. More specifically, it is anticipated that the Administrator Agreement will require the Class Administrator to determine what the total settlement benefit value will be per Class Household, based on the total number of Class Households returning claim forms (the total of those choosing the Filter Option plus those choosing the Incidental Payment Option) and the total amount of settlement funds remaining after deducting court-approved attorneys' fees/expenses and Class Administrator expenses. Using that total participating Class Household number and remaining settlement fund amount, the Class Administrator will determine (as described above) how many replacement cartridges can be included in a water filter package for the total number of participating Class Households (the total of those selecting the Filter Option plus those preferring the Incidental Payment Option), based on the negotiated water filter system rate, the negotiated replacement cartridge rate, the \$200 per-Household installation check, and the negotiated per-Household water filter package delivery rate. (Those choosing the Incidental Payment Option will not actually get the water filter package but a check for the total per-Household value of the Filter Option package determined by the Class Administrator in this manner.)

If, after performing these per-Household calculations, the Class Administrator determines that there is some remaining amount of the settlement fund that is not quite enough to pay for one more replacement cartridge per participating Class Household at the negotiated replacement cartridge rate (the “Remainder”), Class Counsel anticipate that the Administrator Agreement will require the Class Administrator to allocate that Remainder per participating Class Household by adding the per-Household portion of the Remainder to the amount of the \$200 installation check included within the Filter Option package. That amount would then be accordingly reflected in the Class Administrator’s calculation of the total per-Household settlement benefits value used to set the equivalent Incidental Payment Option amount.

Class Counsel are currently working to identify an entity to serve as Class Administrator and to discharge the duties described above for a total fixed fee to be paid at the time attorneys’ fees/expenses are paid from the settlement amount, so that the total amount of settlement funds available for distribution to the Class Households can be determined at the time Class claim forms are returned.

Respectfully submitted,

/s/ Shari M. Blecher, Esq.

Shari M. Blecher, Esq.
Stuart J. Lieberman, Esq.
Lieberman & Blecher, P.C.
10 Jefferson Plaza, Suite 100
Princeton, New Jersey 08540
(732) 355-1311

David B. Byrne, III
Beasley, Allen, Crow, Methvin,
Portis & Miles, P.C.
P.O. Box 4160
Montgomery, Alabama 36103
(334) 269-2343

R. Edison Hill
Hill, Peterson, Carper, Bee
& Deitzler, P.L.L.C.
Northgate Business Park
500 Tracy Way
Charleston, West Virginia 25311
(304) 345-5667

Robert A. Bilott
Taft Stettinius & Hollister, LLP
425 Walnut Street, Suite 1800
Cincinnati, Ohio 45202-3957
(513) 381-2838

Larry A. Winter
Winter Johnson & Hill, PLLC
206 Brooks Street, Suite 201
Charleston, West Virginia 25301
(304) 345-7800

*Attorneys for Rowe Plaintiffs and
Plaintiff Scott*